

STATE OF MICHIGAN
IN THE SUPREME COURT

NATIONAL WINE & SPIRITS, INC.,
NWS MICHIGAN, INC., and
NATIONAL WINE & SPIRITS, L.L.C.,

Supreme Court No. 126121

Plaintiff-Appellants

v

Court of Appeals
No. 243524

STATE OF MICHIGAN,

Circuit Court for the County of
Ingham No. 02-13-CZ

Defendant-Appellee

and

MICHIGAN BEER & WINE
WHOLESALE ASSOCIATION,

Intervening Defendant-Appellee.

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CORBIN R. DAVIS
CLERK
MICHIGAN SUPREME COURT

PLAINTIFF-APPELLANTS' SUPPLEMENTAL AUTHORITY

Plaintiff-Appellants bring to the attention of the Court the transcript (copy attached) of oral argument heard in the United States Supreme Court on November 7, 2004 in the combined cases of *Granholt v Heald, et al* and *Michigan Beer and Wine Wholesalers Association v Heald, et al*, on appeal from the decision of the United States Court of Appeals for the Sixth Circuit (342 F3d 517 (2003)) that was relied on by Plaintiff-Appellants in their application to this Court. This oral argument is relevant to the issue of the interplay between the Twenty-First Amendment to the United States Constitution and the Dormant Commerce Clause. In particular, it is quite apparent from the questions of several of the justices that the decision in *Bacchus Imports, Ltd v Dias*, 468 US 263, 104 SCt 3049, 82 L Ed 2d 200 (1984) in which the Supreme Court struck down a tax on out-of-state liquor that ran afoul of the Commerce Clause, was a significant hurdle to Michigan's legislative scheme that favored in-state wineries at the expense of out-of-state wineries. The *Bacchus* case is quoted at length in support of Plaintiff-Appellants' application to this Court. Given that the issue of the tension between the Twenty-First Amendment and the Commerce Clause is very significant in the case now before this Court, Plaintiff-Appellants respectfully suggest that it makes sense to grant leave to appeal to permit application of the eventual ruling in the *Heald* case to the case at hand.

Respectfully submitted,

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By: 

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